

validation audit or the application of a risk score error rate to its risk adjustment payments and charges.

(e) *Adjustment of payments and charges.* HHS may adjust payments and charges for issuers that do not comply with audit requirements and standards, as specified in paragraphs (b) and (c) of this section.

(f) *Data security and transmission.* (1) An issuer must submit the risk adjustment data and source documentation for the initial and second validation audits specified by HHS to HHS or its designee in the manner and timeframe specified by HHS.

(2) An issuer must ensure that it and its initial validation auditor comply with the security standards described at 45 CFR 164.308, 164.310, and 164.312 in connection with the initial validation audit, the second validation audit, and any appeal.

[78 FR 15531, Mar. 11, 2013]

## Subpart H—Distributed Data Collection for HHS-Operated Programs

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### § 153.700 Distributed data environment.

(a) *Dedicated distributed data environments.* For each benefit year in which HHS operates the risk adjustment or reinsurance program on behalf of a State, an issuer of a risk adjustment covered plan or a reinsurance-eligible plan in the State, as applicable, must establish a dedicated data environment and provide data access to HHS, in a manner and timeframe specified by HHS, for any HHS-operated risk adjustment and reinsurance program.

(b) *Timeline.* An issuer must establish the dedicated data environment (and confirm proper establishment through successfully testing the environment to conform with applicable HHS standards for such testing) three months prior to the first date of full operation.

### § 153.710 Data requirements.

(a) *Enrollment, claims, and encounter data.* An issuer of a risk adjustment covered plan or a reinsurance-eligible

plan in a State in which HHS is operating the risk adjustment or reinsurance program, as applicable, must provide to HHS, through the dedicated data environment, access to enrollee-level plan enrollment data, enrollee claims data, and enrollee encounter data as specified by HHS.

(b) *Claims data.* All claims data submitted by an issuer of a risk adjustment covered plan or a reinsurance-eligible plan in a State in which HHS is operating the risk adjustment or reinsurance program, as applicable, must have resulted in payment by the issuer (or payment of cost sharing by the enrollee).

(c) *Claims data from capitated plans.* An issuer of a risk adjustment covered plan or a reinsurance-eligible plan in a State in which HHS is operating the risk adjustment or reinsurance program, as applicable, that does not generate individual enrollee claims in the normal course of business must derive the costs of all applicable provider encounters using its principal internal methodology for pricing those encounters. If the issuer does not have such a methodology, or has an incomplete methodology, it must supplement the methodology in a manner that yields derived claims that are reasonable in light of the specific service and insurance market that the plan is serving.

### § 153.720 Establishment and usage of masked enrollee identification numbers.

(a) *Enrollee identification numbers.* An issuer of a risk adjustment covered plan or a reinsurance-eligible plan in a State in which HHS is operating the risk adjustment or reinsurance program, as applicable, must—

(1) Establish a unique masked enrollee identification number for each enrollee; and

(2) Maintain the same masked enrollee identification number for an enrollee across enrollments or plans within the issuer, within the State, during a benefit year.

(b) *Prohibition on personally identifiable information.* An issuer of a risk adjustment covered plan or a reinsurance-eligible plan in a State in which HHS is operating the risk adjustment